

PENDING

AMENDMENT NO. ____

Calendar No. ____

Purpose: To expand the research credit.

IN THE SENATE OF THE UNITED STATES—108th Cong., 2d Sess.

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UnitedBy BingamanTo: Amdt. No. 26476**Page(s)**

GPO: 2002 83-247(Mac)

Referred to the Committee on _____
and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by
Mr. Bingaman to the amendment (No.
____) proposed by Mr. Hatch

Viz:

- 1 At the end of the amendment add the following:
- 2 **SEC. ____ . EXPANSION OF RESEARCH CREDIT.**
- 3 (a) CREDIT FOR EXPENSES ATTRIBUTABLE TO CER-
- 4 TAIN COLLABORATIVE RESEARCH CONSORTIA.—
- 5 (1) IN GENERAL.—Section 41(a) (relating to
- 6 credit for increasing research activities) is amended
- 7 by striking “and” at the end of paragraph (1), by

1 striking the period at the end of paragraph (2) and
2 inserting “, and”, and by adding at the end the fol-
3 lowing new paragraph:

4 “(3) 20 percent of the amounts paid or in-
5 curred by the taxpayer in carrying on any trade or
6 business of the taxpayer during the taxable year (in-
7 cluding as contributions) to a research consortium.”.

8 (2) RESEARCH CONSORTIUM DEFINED.—Sec-
9 tion 41(f) (relating to special rules) is amended by
10 adding at the end the following new paragraph:

11 “(6) RESEARCH CONSORTIUM.—

12 “(A) IN GENERAL.—The term ‘research
13 consortium’ means any organization—

14 “(i) which is—

15 “(I) described in section
16 501(c)(3) and is exempt from tax
17 under section 501(a) and is organized
18 and operated primarily to conduct en-
19 ergy research, or

20 “(II) organized and operated pri-
21 marily to conduct research in the pub-
22 lic interest (within the meaning of sec-
23 tion 501(c)(3)),

24 “(ii) which is not a private founda-
25 tion,

1 “(iii) to which at least 5 unrelated
2 persons paid or incurred during the cal-
3 endar year in which the taxable year of the
4 organization begins amounts (including as
5 contributions) to such organization for re-
6 search, and

7 “(iv) to which no single person paid
8 or incurred (including as contributions)
9 during such calendar year an amount
10 equal to more than 50 percent of the total
11 amounts received by such organization
12 during such calendar year for research.

13 “(B) TREATMENT OF PERSONS.—All per-
14 sons treated as a single employer under sub-
15 section (a) or (b) of section 52 shall be treated
16 as related persons for purposes of subparagraph
17 (A)(iii) and as a single person for purposes of
18 subparagraph (A)(iv).”.

19 (3) CONFORMING AMENDMENT.—Section
20 41(b)(3)(C) is amended by inserting “(other than a
21 research consortium)” after “organization”.

22 (b) REPEAL OF LIMITATION ON CONTRACT RE-
23 SEARCH EXPENSES PAID TO SMALL BUSINESSES, UNI-
24 VERSITIES, AND FEDERAL LABORATORIES.—Section
25 41(b)(3) (relating to contract research expenses) is

1 amended by adding at the end the following new subpara-
2 graph:

3 “(D) AMOUNTS PAID TO ELIGIBLE SMALL
4 BUSINESSES, UNIVERSITIES, AND FEDERAL
5 LABORATORIES.—

6 “(i) IN GENERAL.—In the case of
7 amounts paid by the taxpayer to—

8 “(I) an eligible small business,

9 “(II) an institution of higher
10 education (as defined in section
11 3304(f)), or

12 “(III) an organization which is a
13 Federal laboratory,

14 for qualified research which is energy re-
15 search, subparagraph (A) shall be applied
16 by substituting ‘100 percent’ for ‘65 per-
17 cent’.

18 “(ii) ELIGIBLE SMALL BUSINESS.—

19 For purposes of this subparagraph, the
20 term ‘eligible small business’ means a
21 small business with respect to which the
22 taxpayer does not own (within the meaning
23 of section 318) 50 percent or more of—

1 “(I) in the case of a corporation,
2 the outstanding stock of the corpora-
3 tion (either by vote or value), and

4 “(II) in the case of a small busi-
5 ness which is not a corporation, the
6 capital and profits interests of the
7 small business.

8 “(iii) SMALL BUSINESS.—For pur-
9 poses of this subparagraph—

10 “(I) IN GENERAL.—The term
11 ‘small business’ means, with respect
12 to any calendar year, any person if
13 the annual average number of employ-
14 ees employed by such person during
15 either of the 2 preceding calendar
16 years was 500 or fewer. For purposes
17 of the preceding sentence, a preceding
18 calendar year may be taken into ac-
19 count only if the person was in exist-
20 ence throughout the year.

21 “(II) STARTUPS, CONTROLLED
22 GROUPS, AND PREDECESSORS.—Rules
23 similar to the rules of subparagraphs
24 (B) and (D) of section 220(c)(4) shall
25 apply for purposes of this clause.

1 “(iv) FEDERAL LABORATORY.—For
2 purposes of this subparagraph, the term
3 ‘Federal laboratory’ has the meaning given
4 such term by section 4(6) of the Steven-
5 son-Wydler Technology Innovation Act of
6 1980 (15 U.S.C. 3703(6)), as in effect on
7 the date of the enactment of the Energy
8 Tax Incentives Act of 2003.”.

9 (c) EFFECTIVE DATE.—The amendments made by
10 this section shall apply to amounts paid or incurred after
11 December 31, 2004.